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3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

5 NICHOLAS J. CENCICH,

6 Petitioner,

7 v.

8 MAGGIE MILLER-STOUT,

9 Respondent.

NO. C10-5164 BHS/KLS

ORDER DIRECTING  
RESPONDENT TO FILE REPORT  
WITH COURT

10 By Order dated May 28, 2010, this habeas proceeding was stayed pending resolution of  
11 Petitioner's state court proceedings. ECF No. 20. On August 6, 2010, Petitioner asked the  
12 Court to extend the stay while he pursued a motion for reconsideration of the Washington  
13 Supreme Court's denial of his motion to modify. ECF No. 21. Petitioner's request to extend  
14 the stay was granted and Petitioner was directed to advise the Court within thirty (30) days of  
15 receiving a final State court ruling. *Id.* The Court ordered Petitioner to file a status report as to  
16 his state court appeal on or before January 13, 2012. ECF No. 25. Petitioner has done so.  
17  
18 ECF No. 26.

19 According to Petitioner, the Supreme Court rejected his "Motion to Apply State v.  
20 Bashaw" by letter from the Supreme Court Clerk dated August 5, 2010. The motion was  
21 placed in the Court's file without further action and Petitioner was notified that the matter is  
22 not subject to reconsideration. ECF No. 25, p. 15. Petitioner maintains, however, that a stay of  
23 this habeas proceeding is necessary in light of the Washington State Supreme Court's  
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1 acceptance of discretionary review of another case, *In re Personal Restraint of Scott*, 149 Wn.  
2 App. 231, 202 P.3d 985 (2009).

3 Accordingly, it is **ORDERED**:

4 (1) Respondent shall provide the Court with a response to Petitioner's claim that the  
5 stay remain in place. Respondent is directed to file his response on or before **February 17,**  
6 **2012.**

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8 (2) The Clerk shall send a copy of this Order to Petitioner and counsel for  
9 Respondent.

10 **DATED** this 3rd day of February, 2012.

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13 Karen L. Strombom  
14 United States Magistrate Judge  
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